

REMARKS

In the Office Action dated April 7, 2004, Claims 1-15 and 17-21 are under examination. Claims 1-7, 17-18 and 21 are allowed. Claims 8-15 and 19-20 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Smit *et al.* (U.S. Patent 5,500,353).

The Examiner states that Applicant's previous response has overcome the §102(b) rejection insofar as the rejection relates to a host cell of claims 1-7. However, the Examiner states that Applicant did not address the rejection as it relates to the DNA constructs and host cells of claims 8-13, 15 and 19-20.

The Examiner contends that Smit *et al.* teach a method of expressing in a *Caulobacter* a fusion protein of an S-layer protein (RsaA) and a heterologous protein. The Examiner is of the opinion that the DNA construct disclosed by Smit *et al.* encodes a *Caulobacter* surface layer protein (RsaA) and a heterologous protein, both of which are inherently linked to a secretion signal. Furthermore, the Examiner contends that the method taught by Smit *et al.* would inherently use an operably linked promoter recognized by *Caulobacter* to achieve the expression of the fusion protein. Thus, the Examiner contends that the reference anticipates the claimed construct.

To favorably advance prosecution of the present application, Applicant has amended independent claims 8 and 9 in a manner similar to the amendment to claim 1 presented in Applicant's previous response. Specifically, claims 8-9 are amended to further delineate that the secretion signal is from the S-layer protein of a non-*C. crescentus* *Caulobacter* which comprises at least one surface layer transport protein comprising an amino acid sequence sharing at least 80% sequence identity with SEQ ID NO:5. Applicant respectfully submits that the Smit *et al.* reference does not teach or suggest the DNA construct or host cells transformed therewith, as

presently recited in claims 8-15 and 19-20. As such, the rejection under 35 U.S.C. §102(b) based on Smit *et al.* is overcome. Withdrawal of the rejection is therefore respectfully submitted.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. DiGiglio', with a stylized flourish at the end.

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